

**OGMCOAL - Mining Plan Determination - Kinney #2**

---

**From:** "Johnston, Carl" <CJohnston@osmre.gov>  
**To:** "Herrmann, Betsy" <betsy\_herrmann@fws.gov>, "DiBenedetto, Joseph N" <jnd...>  
**Date:** 11/8/2010 8:02 AM  
**Subject:** Mining Plan Determination - Kinney #2  
**Attachments:** Kinney.def.doc

---

Attached is OSM's final decision regarding the need for Mining Plan Modification for the above subject. A signed copy will be sent to you in today's mail.

In accordance with the Federal regulations under 30 CFR 740.13(d), other Federal agencies that may have an interest in, or jurisdiction over, the above subject operation have also been notified of OSM's decision electronically.

No responses to this transmittal are necessary.

**Carl R. Johnston**  
Natural Resource Specialist  
OSMRE / WR / FOB  
1999 Broadway, Suite 3320  
Denver, CO 80202

(303) 293-5038  
Fax: (303) 293-5032  
e-mail: CJOHNSTO@OSMRE.GOV

UT-0000

November 8, 2010

Utah Division of Oil, Gas, & Mining  
Coal Regulatory Program  
1594 West North Temple, Suite 1210  
P.O. Box 145801  
Salt Lake City, Utah 84114-5801

RE: Carbon Resources, LLC - "Kinney #2" Mine - Application for a Permit Revision, Permit Application Resubmission, Task No. 3646

Dear Sir or Madam:

This is in response to the Utah Division of Oil, Gas & Mining's (UT-DOGM) October 7, 2010, request for a decision, under 30 CFR 944.30, whether the above subject permit revision constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands. This letter serves to document OSM's determination whether or not a mining plan approval from the Secretary is required for the above permitting action.

OSM's review of the Application for a Permit Revision, Permit Application Resubmission, has determined that it resubmits the application for a new permit in order to address deficiencies found by UT-DOGM during the review of the original permit application for the Kinney #2 mine, Utah State permit C/007/0047.

Based on a review of the activities associated with the permit revision, OSM has determined that the proposal does not meet the requirements of 30 CFR PART 740 and PART 746. Therefore, the proposed permit revision does not constitute a mining plan action requiring Secretarial approval.

OSM's decision was based solely upon the Federal regulations under 30 CFR PART 746 and not the technical aspects of the revision application itself. Consequently, OSM's decision does not relieve UT-DOGM from coordinating the review and approval of the Application for a Permit Revision, Permit Application Resubmission, with other Federal agencies for compliance with other Federal regulations.

OSM also electronically transmitted the September 22, 2010, request to the Bureau of Land Management and the USDA Forest Service for their review and comment. Neither agency provided any comments in the thirty day time frame established by the Federal regulations under 30 CFR 944.30, Article VI. D.

Please notify the applicant of our decision on this matter.

Should you have any questions regarding this letter or approval, please contact Carl R. Johnston, Utah Federal Lands coordinator, at (303) 293-5038.

Sincerely,

Robert Postle  
Manager, Field Operations Branch

cc: BLM - Utah State Office  
BLM - Price Field Office  
USFS - Manti-La Sal NF  
Denver Field Division